

CONFIDENTIAL

1 March 1977

MEMORANDUM FOR THE RECORD

SUBJECT: Telephone Call from David Aaron, 28 February, 6:25 p.m.

1. Mr. Aaron called to state that he understood that CIA was going to furnish the SSCI with information it had reported to the Intelligence Oversight Board. He desired that CIA consult with his office before such information was passed. He referred to a procedure established via a letter dated 21 January 1977, which pertained to passing IOB information to the SSC, and which, he commented, did not "sit well with us." He said that Sam Hoskinson would be in touch with John Waller on this subject in the morning.

2. Aaron added that in most instances the IOB dismissed the "improprieties" reported to the CIA as not worth its consideration. He felt that the SSCI, or individual Senators, might on the other hand "go dashing off" with the same information.

3. I telephoned John Waller at home. He stated that we had not conveyed any material from the current IOB report to the SSC. In fact, he had been conferring with Tony Lapham on the very question of prior consultation with the NSC on this subject (Lapham, because he drafted the "protocol" with Bill Miller regarding what we do and do not pass to the SSC).

A/DDCI

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77-6187

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

*It was in Draft
version under
76-4195/1
C-38.2*

The Honorable Daniel K. Inouye
Chairman, Select Committee on
Intelligence
United States Senate
Washington, D. C. 20510

21 JAN 1977

Dear Mr. Chairman:

As you know, Section 6(b) of Executive Order 11905 requires that Inspectors General and General Counsels within the Intelligence Community submit periodic reports to the Intelligence Oversight Board (IOB) concerning activities of their respective agencies that raise questions of legality or propriety. It is the function of the IOB to consider these reports and make any appropriate reports of its own to the Attorney General or the President. Further, it is the responsibility of senior Intelligence Community officials under Section 4(a)(5) of E.O. 11905 to report possible violations of federal law to the Attorney General. That requirement is related to the obligations imposed on heads of all Executive departments and agencies by 28 U.S.C. §535.

At my confirmation hearing on 23 June 1976, you asked in effect whether the Agency would be willing to make available to your Committee reports similar to those submitted to the IOB or the Attorney General in respect of Agency activities that raise questions of legality or propriety or possible law violations. I answered in the affirmative. In line with that exchange, I propose the following arrangements: Within a month after any report has been furnished to the IOB by the Agency's Inspector General or General Counsel, these officials, unless the Agency is instructed to the contrary by the President, will inform the Committee's Staff Director in writing as to the general nature of the items reported. To the extent that the Committee or its Staff Director may be interested in pursuing further any of these items, the Inspector General or the General Counsel, as the case may be, will be available to provide additional detail. With respect to matters reported to the Attorney General, involving possible law violations, the Agency's General Counsel will prepare and submit to the Committee Staff Director, quarterly, a written statement indicating the number of previously reported possible offenses closed out during the preceding quarter by a Department of Justice decision to prosecute or not to prosecute, together with a brief description of the circumstances, without however identifying the potential violators. These statements would also indicate the number and type of possible offenses reported for the first time during the preceding quarter.

EX-100

C-38.2



I believe that these arrangements will serve the Committee's oversight needs without infringing on other legitimate interests that should properly be taken into account. So far as concerns the items reported to the IOB, it seems to me that a 30-day period is the minimum that should be allowed for executive consideration before involving the Congress, especially in view of the fact that the reporting threshold under Section 6(b) of E.O. 11905 is crossed when serious questions of legality or propriety appear, prior even to final determinations and resolutions of the issues raised by the particular activities. So far as concerns the matters reported to the Attorney General, there are considerations having to do both with fairness to the individuals involved, as to whom reports may be made on the basis of mere possibilities that they committed some offense, and with the integrity of any investigations that may be conducted by the Department of Justice pursuant to our reports.

The proposed arrangements have already been discussed by the Agency's General Counsel and Bill Miller, but I would be pleased to discuss them further at your convenience should you desire.

Sincerely,

757 E. H. Knoche

E. H. Knoche
Acting Director

OGC:AAL:sin

Distribution:

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MEMORANDUM FOR: ADCI

Hank--

Two small points:

1. I would have preferred to see this dated the 19th and signed by you as DDCI since the arrangements were made with the outgoing Administration.

2. There is a certain contradiction (maybe deliberate) between para 2 commitment to report within a month and para 3 statement that 30 days is minimum desirable for Executive consideration before going to Congress.

Date 21 January 77

FORM 101 USE PREVIOUS EDITIONS